

Arkansas Notary Public Handbook



SECRETARY OF STATE
MARK MARTIN



SECRETARY OF STATE MARK MARTIN

Dear Notary Public:

I am pleased to introduce the most recent printing of the *Arkansas Notary Public Handbook*, which features information specifically of interest to notaries public.

The handbook explores issues including:

- Proper notary practices
- Common notary misconceptions
- Changes in technology
- Examples of oaths and forms
- Other information valuable to new and renewing notaries public
- Text of Arkansas's notary laws

If you need additional information or have questions, please contact the Arkansas Secretary of State Business and Commercial Services Division at 501-682-3409, 1-888-233-0325 or e-mail corporations@sos.arkansas.gov.

Sincerely,

A handwritten signature in black ink that reads "Mark Martin". The script is fluid and cursive.

Mark Martin
Secretary of State



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What is a Notary Public?

A notary public acts as an official and unbiased witness to the identity of a person who comes before the notary. This person may be taking an oath, giving written testimony, or acknowledging his/her signature on a legal document.

The key here is identity. The notary must be certain that the person appearing before him/her is who that person claims to be. Personal appearance before the notary is required. A notary cannot notarize a document by video.

A notary public cannot notarize his/her own signature, or a document to which the notary is party, or from which the notary would gain direct or indirect financial benefit.

A notary is authorized by law to perform certain notarial acts. Each notarial act has legal significance and affects the legal rights of others.

Appointment/Commission/Change in Personal Information

Qualification:

Under Arkansas law, a notary public is appointed and commissioned by the Secretary of State. Each applicant must complete an application stating:

- 1. The applicant is a legal resident of Arkansas, or a legal resident of an adjoining state and employed in Arkansas.*
- 2. The applicant is a United States citizen or a permanent resident alien. (Include a copy of a recorded Declaration of Domicile.)*
- 3. The applicant is at least eighteen (18) years old.*
- 4. The applicant is able to read and write English.*
- 5. A prior notary commission has not been revoked in the past ten (10) years.*
- 6. The applicant's residential address, or if the applicant lives in an adjoining state but works in Arkansas, list both the business and residential addresses.*

Commission:

Applications for appointment as a notary public are available from the Office of the Secretary of State online at www.sos.arkansas.gov or by calling 501-682-3409. The applicant must list his/her name exactly as it is to appear on each document notarized. The applicant must inform the Secretary of State's office and the circuit clerk's office of any name change during the commission within thirty (30) days of the change (1) by certified court order or (2) by certified copy of marriage license.

The applicant's signature must be witnessed by a notary public. The applicant's commission is to be in the county of residence, or the county of employment in the case of out-of-state notaries, and is valid in every county in the State of Arkansas. The completed application should be sent to the Secretary of State's office with a fee of \$20 and a copy of the applicant's \$7,500 surety bond, available through any bonding company.

The applicant will be mailed three (3) originals of the Notary Public Certificate/Notary Public Oath forms. One original Certificate/Oath form, as well as a surety bond or surety contract, must be filed with the circuit clerk in the county of commission. The applicant will retain one original of the Certificate/Oath form after the clerk signs it. The clerk may keep one original, or may make a photocopy of the Certificate/Oath form. The third certificate must be returned to the Secretary of State. Either the applicant or the circuit clerk may do this. Check with the circuit clerk; each county is different.

Bond:

A surety bond in the amount of \$7,500 is required. The notary shall purchase either a surety bond executed by a surety insurer authorized to do business in the state of Arkansas or a surety contract from a general business Arkansas corporation which has registered with the Arkansas Insurance Department and otherwise complied with all requirements under Arkansas law.

A copy of the Notary Bond (not the original) must be forwarded to the Secretary of State's office with the application. The original of the bond will be filed with the circuit clerk of the county of commission.

Oath:

The circuit clerk will require the notary to file the bond and the Certificate/Oath form and pay the required filing fee. After filing these documents with the circuit clerk, an original Certificate/Oath must be returned to the Arkansas Secretary of State, Business and Commercial Services Division, State Capitol, Little Rock, AR, 72201 no later than thirty (30) days from the date the commission was authorized. If returning the Certificate/Oath in person, the physical address is 1401 West Capitol, Suite 250 (Victory Building), Little Rock. After the Certificate/Oath is returned to the Secretary of State, the notary's identification card will be issued and the notary will be listed in "good standing."

Renewal and Transfer

A notary's commission is for a term of ten (10) years and may be renewed by filing a new application with the Secretary of State's Office. The application for renewal and a copy of the notary bond must be sent to the Secretary of State no earlier than thirty (30) days before the expiration of the current commission.

If a notary changes his/her place of residence (or, if a resident of an adjoining state, changes his/her place of employment) to another county in Arkansas other than the original county of commission, he/she must notify the Secretary of State in writing. The notary commission must be transferred to the new county of residence or employment. The bonding company should also be notified of changes.

The bond filed in the original county of residence or employment must also be filed in the new county of residence or employment. The notary is responsible for transferring the bond from the previous county to the new county of commission.

Powers and Duties

Under Arkansas law, a notary has the power to perform these basic notarial acts:

1. *Administering oaths in all matters pertaining to notarial office*
2. *Taking acknowledgments*
3. *Certifying affidavits*
4. *Certifying depositions (see page 6)*
5. *Supervising photocopying of most original documents and attesting to documents' validity*

A notary's jurisdiction extends to any part of the state of Arkansas during his/her 10-year term.

In 2005, the Arkansas General Assembly adopted legislation regarding notaries who advertise as “notario,” “notario publico,” or other similar terms. Those notaries are required to include in the advertisement the following notice in both English and Spanish:

“I am not a licensed attorney and cannot engage in the practice of law. I am not a representative of any governmental agency with authority over immigration or citizenship and I cannot offer legal advice or other assistance regarding immigration.”

(See Arkansas Code Title 4, Chapter 109, included in the notary law at the back of this book.)

Notarial Acts

Oaths:

An oath is a formal statement by which a person appearing before a notary swears (or affirms):

1. That the statement or group of statements is the truth; or
2. That the testimony he/she will give will be the truth; or
3. That he/she will faithfully perform the duties of a corporate office.

Sample oath to administer to corporate officials:

State of Arkansas

County of _____

"I, _____, hereby enter into the position of _____ on behalf of _____ corporation. I affirm that I will fulfill these duties to the best of my ability and perform in accordance with the law and in the best interest of the corporation."

Acknowledgments:

An acknowledgment is a formal statement by a person that a document is his/her own act. The act of the notary who takes an acknowledgment is called a "certificate of acknowledgment." The notary should attach to every certificate of acknowledgment a statement of the date on which his/her commission expires.

Suggested Form for Acknowledgement:

State of Arkansas

County of _____

On this the ____ day of _____, 20__, before me, (name of notary), the undersigned notary, personally appeared (name(s) of signer(s)) known to me (or satisfactorily proven) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary Public

My Commission expires: _____

Affidavits:

An affidavit is simply a written statement to which some person (the "Affiant") makes oath. It must clearly state the name of the person swearing (or affirming) that the statements are true and complete.

Suggested Form for Affidavits:

I, _____ (Name of Affiant) being duly sworn,
depose and say as follows:

1. Statements

(Signature of Affiant)

County of _____

State of Arkansas

Acknowledged before me, this _____ day of
_____, _____.

Notary Public

My commission expires: _____

Depositions:

A deposition is a form of oral testimony, transcribed for use in legal proceedings. A notary has two functions in connection with depositions. First, the notary may be asked to take the witness' oath to tell the truth. Second, after the deposition has been transcribed, the notary may be asked to certify that the written transcript is a complete and accurate record of what was said at the deposition.

However, Arkansas court rules now require all depositions to be attested by a certified court reporter. If this is not done, the deposition will not be accepted by Arkansas courts. Therefore it is not advisable for notaries to accept depositions.

Photocopies:

A notary may certify a photocopy as being a true and perfect copy of the original document, provided the document is not a vital record or a public record. The notary may supervise the photocopy being made, or may make the copy himself/herself. The notary may keep a copy for his/her records to later ascertain that the certified document has not been altered.

Sample wording for certifying photocopies:

State of Arkansas

County of _____

"I, _____, certify this is a true and perfect copy of the original document presented to me on this _____ day of _____, 20__.

Signed _____

Seal

Notary Supplies and Details

Seal:

Each notary public must have a seal of office, which can be either a rubber stamp or a metal embosser. The seal must include (1) his/her name as written in his/her official signature, (2) the name of the county where his/her bond is filed, (3) the words "notary public" and "Arkansas," (4) the date of expiration of the notary's commission and (5) the commission number assigned by the Arkansas Secretary of State for any notary commission filed after January 1, 2006.

The seal must be clear and legible, and capable of photographic reproduction. When using an embosser, it is advisable to use an ink pad or carbon over the seal so that it can be photocopied.

It is not lawful to use a notary seal showing the Great Seal of Arkansas or an outline of the State of Arkansas.

At the time of notarization, the notary public must sign his/her official signature on every notary certificate and affix his/her seal under or near his/her signature. The notary may use a facsimile signature and seal, such as a stamp or engraved reproduction, in lieu of the manual signature and rubber or embossed seal on commercial documents, except deeds or other documents for conveying real estate. If a facsimile signature or seal is to be used, the notary must first file with the Secretary of State's office his or her manual signature, a description of the type of commercial documents to be notarized, and the name, manual signature, and written consent of any other persons signing the commercial documents. (See §21-14-201 in the back of this book.)

Notary Register or Journal:

The notary's greatest responsibility is to be certain of the identity of each person whose signature he/she will notarize. A good guide is to require some form of proper identification unless the notary personally recognizes the person whose signature is to be notarized.

The law does not require a notary to keep any record of his/her official acts, but it is recommended to do so.

A register or journal offers an excellent way of recalling past notarial acts. If a notary is called upon to testify in court, a register or journal may help establish what actually took place. The notary's records and official papers are admissible as evidence in all Arkansas courts. (See §21-14-110 in the back of this book.)

Suggested Format:

1. Date of notarial act
2. Type of act performed
3. Type of document involved
4. Name and address of each person whose signature was notarized
5. Signature of each person whose signature was notarized
6. A "notes" section of personal annotations

Notarial Acts for a Corporation:

By law, a notary who is a party to an instrument, either individually or as a representative of a corporation which is a party to the instrument, may not perform any notarial acts concerning that instrument. However, a corporate employee may notarize documents to which the corporate employer is a party, as long as the notary is not involved, either individually or as a representative of the corporate party.

Fees:

Arkansas law provides a fee schedule for the following acts (see §21-6-309 in the back of this book):

For protest and record of same	\$5.00
For each notice of protest	\$5.00
For each certificate and seal	\$5.00

Penalty/Revocation:

A notary public violating Arkansas law in respect to witnessing signatures shall be guilty of a Class A misdemeanor, punishable by a fine of up to \$1,000 or up to one year in jail. In addition, his/her commission shall be revoked and he/she cannot be recommissioned for ten (10) years. A notary who violates Arkansas law as to fees charged shall also be guilty of a misdemeanor.

The Secretary of State has been given the power to investigate complaints by the general public against notaries. Any complaint about a notary must be made in writing to the Secretary of State.

The Secretary of State's Legal department will investigate all complaints.

Resignation of Commission:

A notary who wishes to resign prior to the expiration of his/ her term for any reason shall send a letter to the Secretary of State, enclosing his/her commission. He/she shall then destroy his/her seal.

Notary Processing Instructions

To prevent delay in processing your notary application, please follow the steps below:

STEP 1: Obtain a \$7,500 Surety Bond from a bonding company. If you do not know of one, contact your insurance agent; he/she may be able to assist you. You can also obtain a list of bonding companies online at www.sos.arkansas.gov/BCS/Pages/notarypublic.aspx. You may purchase your bond from the company of your choice.

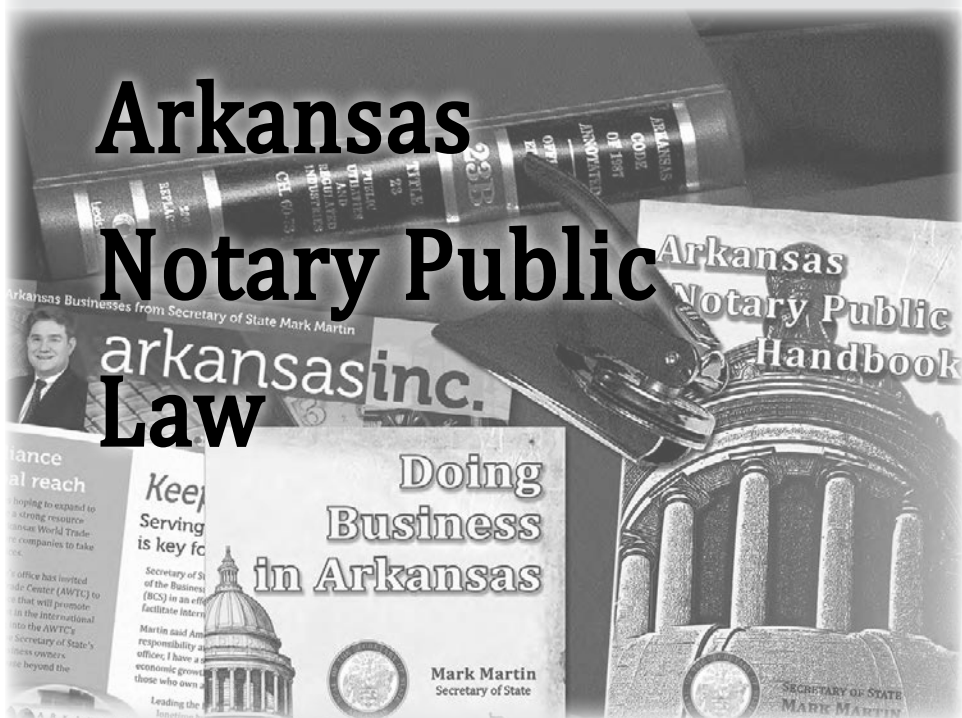
STEP 2: Complete the Secretary of State Notary Public Application; be sure to have your signature notarized. Return to the Secretary of State's office a copy of your Surety Bond (not the application for the Surety Bond or the original Surety Bond), along with your check or money order in the amount of \$20.00, made payable to the Secretary of State, and your completed and notarized application.

STEP 3: After your application has been received and processed by the Secretary of State's office, we will send to you three (3) Notary Public Certificate/Notary Public Oath forms containing the oath of office and a Commission Identification Number. Do not complete the Oath of Office until you take them, along with your original bond, to the circuit clerk of your county of residence. (Remember, you are commissioned in your county of residence, but you are able to notarize throughout the State of Arkansas.) You must return an original filed Notary Public Certificate/Notary Public Oath form to the Secretary of State's Business and Commercial Services Division. Make sure you keep one of the original Certificate/Oath forms for your records. The Secretary of State's office will then issue your notary wallet card.

FILING TIME: You have thirty (30) days from the date of your commission to file your oath with the circuit clerk. Your commission date is issued by the Secretary of State's office.

If you have any questions, contact the Secretary of State's Business and Commercial Services Division at 501-682-3409 or toll free at 888-233-0325.

Arkansas Notary Public Law



Arkansas Notary Law

21-14-101. Appointment and commission.

(a)(1) The Secretary of State may appoint and commission an individual person as a notary public in this state.

(2) Effective January 1, 2006, a notary public may perform notarial acts in any part of the state for a term of ten (10) years, beginning on the date of commission or the date of renewal of a commission issued by the Secretary of State.

(b) Every applicant for appointment and commission as a notary public shall complete an application to be filed with the Secretary of State stating:

(1) That he or she is:

(A) Either a:

(i) Bona fide citizen of the United States; or

(ii) Permanent resident alien who shall file with his or her application a recorded Declaration of Domicile;

(B) A legal resident of Arkansas or an adjoining state and employed in the State of Arkansas;

(C) Eighteen (18) years of age or older; and

(D) Able to read and write English;

(2) The address of his or her business or residence in this state; and

(3) That during the past ten (10) years, his or her commission as a notary public has not been revoked.

(c) The application shall be sent to the Secretary of State with a fee of twenty dollars (\$20.00) for the notary public commission.

(d) Every notary public shall file in the office of the recorder of deeds for the county where the notary public resides, or in the case of a resident of an adjoining state, in the county in Arkansas where employed, either:

(1) A surety bond executed by a surety insurer authorized to do business in Arkansas to the state for the faithful discharge of the notary public's duties in the sum of seven thousand five hundred dollars (\$7,500), to be approved by the Secretary of State; or

(2) A surety contract guaranteeing the notary public's faithful discharge of his or her duties executed to the State of Arkansas for not more than an aggregate seven thousand five hundred dollars (\$7,500), issued by a general business corporation validly organized

and formed under the laws of this state pertaining to domestic corporations and which:

(A) Has previously registered with the Insurance Commissioner on forms prescribed by the Commissioner evidencing the corporation's purpose to issue only surety contracts for notaries public pursuant to the provisions of this section;

(B) Has previously deposited and thereafter maintains with the Commissioner securities in the sum of not less than ten thousand dollars (\$10,000) executed to the State of Arkansas that are issued by a nonaffiliated corporate entity and are approved by the Commissioner; and

(C) Is not otherwise transacting any insurance business in this state that requires compliance with the provisions of the Arkansas Insurance Code.

(e) (1) The obligation of an issuer of a bond required by subsection

(d) of this section:

(A) Shall be solely to the State of Arkansas; and

(B) Is solely for the benefit of the State of Arkansas.

(2) Under no circumstances shall the aggregate liability of the issuer exceed the amount of the bond.

(f) (1) Every notary public shall sign the following declaration in the presence of the circuit clerk for the county where the notary public resides or if a resident of another state, the circuit clerk for the county in Arkansas where employed:

"I, (name of notary), solemnly swear or affirm that I have carefully read the notary laws of this state, and I will uphold the Constitutions of the United States and the State of Arkansas and will faithfully perform to the best of my ability all notarial acts in accordance with the law.

(Signature of notary)

Subscribed and sworn to before me (name of circuit clerk), Circuit Clerk for the County of (name of county), State of Arkansas, on this _____ day of _____, (year).

(Signature of circuit clerk)"

(2) The notary public shall send an executed and signed original of the declaration to the Secretary of State.

(f) Effective January 1, 2006, the Secretary of State shall issue a commission number to each new notary public and to each notary public who renews his or her commission.

History. Acts 1874, No. 17, § 1, p. 61; C. & M. Dig., § 7969; Pope's Dig., § 10362; Acts 1981, No. 672, § 1; 1985, No. 966, § 1; A.S.A. 1947, § 12-1401; Acts 1989, No. 304, § 2; 2001, No. 1274, § 1; 2005, No. 2274, § 1.

21-14-102. Change of residence.

(a)(1) Upon receiving notification of a change of residency, the Secretary of State shall transfer a notary public's appointment and commission to the new county of residence in instances in which a person appointed and commissioned a notary public under § 21-14-101 changes residence to a county within this state other than the county where the notary public resided on the date of commission.

(2) Upon receiving notification of a change in place of employment, the Secretary of State shall transfer a notary public's appointment and commission to the new county of employment in the case of a resident of an adjoining state changing his or her place of employment to a county within this state other than the county where the notary public was employed on the date of commission.

(b) The original bond shall also be filed by the notary public in the new county of residence or if the notary public is a resident of an adjoining state, in the new county of employment in Arkansas.

History. Acts 1983, No. 21, § 1; 1985, No. 966, § 2; A.S.A. 1947, § 12-1401.1; Acts 2005, No. 2274, § 1.

21-14-103. Change in personal information.

(a) If any notary public has a change in his or her mailing address or status in life that alters the information on record with the Secretary of State and the circuit clerk for the county where the notary public resides or, if the notary public is a resident of an adjoining state, the circuit clerk for the county in Arkansas where he or she is employed, the notary public shall be responsible for providing that change of information to the Secretary of State's office and the circuit clerk within thirty (30) calendar days of the change.

(b) If the change in status involves a court order, the notary public shall be responsible for providing the Secretary of State with a certified copy of the court order within thirty (30) calendar days of the filing of the court order with the clerk.

(c) If the notary public marries and the notary public's name changes, a certified copy of the marriage certificate shall be delivered to the Secretary of State's office and the circuit clerk for the county where the notary public resides or if the notary public is a resident of an adjoining state, the circuit clerk for the county in Arkansas where he or she is employed.

History. Rev. Stat., ch. 104, § 6; C. & M. Dig., § 7975; Pope's Dig., § 10368; A.S.A. 1947, § 12-1410; Acts 2001, No. 1274, § 2; 2005, No. 2274, § 1.

21-14-104. Power and authority generally.

The power and authority of a notary public shall be coextensive with the state for:

- (1) The purpose of swearing witnesses;
- (2) Taking affidavits and depositions; and
- (3) Taking acknowledgments of deeds and other instruments in writing and authorized by law to be acknowledged.

History. Acts 1901, No. 82, § 1, p. 148; 1905, No. 269, § 1, p. 687; C. & M. Dig., § 7970a; Pope's Dig., § 10363; A.S.A. 1947, § 12-1405.

21-14-105. Administration of oaths.

Each notary public shall have power to administer oaths in all matters incident to or belonging to the exercise of his or her notarial office.

History. Rev. Stat., ch. 104, § 3; C. & M. Dig., § 7970; Pope's Dig., § 10363; A.S.A. 1947, § 12-1403.

21-14-106. Acknowledgments and authentications.

(a) A notary public may:

- (1) Take the proof or the acknowledgment of all instruments of writing relating to commerce and navigation;
- (2) Receive and authenticate acknowledgments of deeds, letters of attorney, and other instruments of writing;
- (3) Make declarations and protests; and

(4) Certify under his or her official seal the truth of all matters and things done by virtue of his or her office.

(b) A notary public may supervise the making of a photocopy of an original document and attest that the document is a copy if the document is not:

(1) A vital record in this state, another state, a territory of the United States, or another country; or

(2) A public record, if a copy can be made by the custodian of the public record.

History. Rev. Stat., ch. 104, § 4; C. & M. Dig., § 7973; Pope's Dig., § 10366; A.S.A. 1947, § 12-1404; Acts 2001, No. 1274, § 3; 2005, No. 2274, § 2.

21-14-107. Signature - Seal.

(a)(1) At the time of notarization, the notary public shall sign his or her official signature on every notary certificate.

(2) The official signature shall be the signature on file with the Secretary of State's office at the time of signing.

(b)(1) Under or near a notary public's official signature on every notary certificate, the notary public shall provide a seal of his or her office, which shall be either a rubber stamp seal or a seal embosser. The seal shall be clear and legible and capable of photographic reproduction.

(2) The seal shall include:

(A) The notary public's name exactly as he or she writes his or her official signature;

(B) The name of the county where the notary public's bond is filed;

(C) The words "notary public" and "Arkansas";

(D) The date upon which the notary public's commission expires; and

(E) The notary public's commission number issued by the Secretary of State if the notary public has been issued a commission number.

(c) A notary seal shall not include the Seal of the State of Arkansas or an outline of the state.

(d) The seal and certificate of the notary public commission are the exclusive property of the notary public and must be kept in the exclusive control of the notary public.

e) The seal and certificate of the notary public commission shall not be surrendered to an employer upon termination of employment, regardless of whether or not the employer paid for the seal or for the commission.

History. Rev. Stat., ch. 104, § 7; C. & M. Dig., § 7976; Pope's Dig., § 10369; Acts 1981, No. 672, § 2; A.S.A. 1947, § 12-1402; Acts 2001, No. 1274, § 4; 2005, No. 1962, § 104; 2005, No. 2274, § 2.

21-14-108. Expiration date of commission.

(a)(1) Every notary public shall attach to any certificate of acknowledgment or jurat to an affidavit that he or she may make a statement of the date on which his or her commission will expire.

(2) No acknowledgment or other act of a notary public shall be held invalid on account of the failure to comply with this section.

(b) No notary public shall perform any official act after the expiration of his or her commission as evidenced by his or her certificate.

(c) Thirty (30) calendar days prior to the expiration of a notary public's commission, he or she shall submit to the Secretary of State a new application along with the fee of twenty dollars (\$20.00) for the renewal of the commission.

(d) Every notary public shall file in the office of the recorder of deeds for the county where the notary public resides or if the notary public is a resident of an adjoining state, in the office of the recorder of deeds for the county in Arkansas where employed, either:

(1) A surety bond executed by a surety insurer authorized to do business in Arkansas for the faithful discharge of the notary public's duties in the sum of seven thousand five hundred dollars (\$7,500), to be approved by the Secretary of State's office; or

(2) A surety contract guaranteeing the notary public's faithful discharge of his or her duties executed to the State of Arkansas for not more than an aggregate seven thousand five hundred dollars (\$7,500), issued by a general business corporation validly organized and formed under the laws of this state pertaining to domestic corporations and which:

(A) Has previously registered with the Insurance Commissioner on forms prescribed by the commissioner evidencing the corporation's purpose to issue only surety contracts for notaries public pursuant to the provisions of this section;

(B) Has deposited and maintains with the Commissioner securities in the sum of not less than ten thousand dollars (\$10,000) executed to the State of Arkansas that are issued by a nonaffiliated corporate entity and are approved by the Commissioner; and

(C) Is not otherwise transacting any insurance business in this state that requires compliance with the provisions of the Arkansas Insurance Code.

History. Acts 1891, No. 35, §§ 1, 2, p. 57; C. & M. Dig., §§ 7971, 7972; Pope's Dig., §§ 10364, 10365; A.S.A. 1947, §§ 12-1406, 12-1407; Acts 2001, No. 1274, § 5; 2005, No. 2274, § 2.

21-14-109. Performance of duties for corporation.

(a) It shall be lawful for any notary public who is a stockholder, director, officer, or employee of a bank or other corporation to take the acknowledgment of any party to any written instrument executed to or by the corporation, or to administer an oath to any other stockholder, director, officer, employee, or agent of the corporation, or to protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes, and other negotiable instruments which may be owned or held for collection by the corporation.

(b) It shall be unlawful for any notary public to take the acknowledgment of an instrument executed by or to a bank or other corporation of which he or she is a stockholder, director, officer, or employee where the notary public is a party to the instrument, either individually or as a representative of the corporation, or to protest any negotiable instrument owned or held for collection by the corporation, where the notary public is individually a party to the instrument.

History. Acts 1953, No. 331, § 1; A.S.A. 1947, § 12-1411.

21-14-110. Admissibility of acknowledged instruments.

All declarations and protests made and acknowledgments taken by a notary public and certified copies of the notary public's records and official papers shall be received as evidence of the facts therein stated in all the courts of this state.

History. Rev. Stat., ch. 104, § 8; C. & M. Dig., § 7977; Pope's Dig., § 10370; A.S.A. 1947, § 12-1409.

21-14-111. Unlawful act - Penalty.

(a) It is unlawful for any notary public to witness any signature on any instrument unless the notary public either:

- (1) Witnesses the signing of the instrument and personally knows the signer or is presented proof of the identity of the signer; or
- (2) Recognizes the signature of the signer by virtue of familiarity with the signature.

(b) Any notary public violating this section shall be guilty of a Class A misdemeanor.

(c) For purposes of this section, “personally knows” means having an acquaintance, derived from association with the individual, which establishes the individual’s identity with at least a reasonable certainty.

History. Acts 1989, No. 304, § 3; 2001, No. 1274, § 6.

21-14-112. Denial or revocation of notary public commission.

(a) The Secretary of State may deny the application of any person for appointment or reappointment or revoke the commission of any notary public during the notary public’s term of appointment if the notary public:

- (1) Submits an application for commission and appointment that contains substantial and material misstatement or omission of fact;
- (2) Is convicted of official misconduct under the provisions of §21-14-111;
- (3) Knowingly uses false or misleading advertising in which the notary public represents that the notary public has powers, duties, rights, or privileges that the notary public does not possess by law;
- (4) Is found by a court of this state to have engaged in the unauthorized practice of law;
- (5) Is found by a court to have improperly notarized documents according to the law; or
- (6) Fails to complete the requirements under §21-14-101.

(b) The Secretary of State’s office may investigate a possible violation of this section upon a signed complaint from any person.

(c) After a notary public receives notice from the Secretary of State that the notary public’s commission has been revoked, unless the

revocation has been enjoined the notary public shall immediately send or have delivered to the Secretary of State's office:

- (1) The notary public's journal of notarial acts;
 - (2) All other papers and copies relating to the notary public's notarial acts; and
 - (3) The notary public's official seal.
- (d) A person whose notary public commission has been revoked pursuant to the provisions of this section may subsequently apply for commission and appointment as a notary public after five (5) years have elapsed from the date of the revocation.

History. Acts 1999, No. 1187, § 1; 2005, No. 2274, § 3.

21-14-113. Notice of revocation - Appeal.

(a) If the Secretary of State revokes a notary public commission, he or she shall serve the notary public with written notice that explains the reason or reasons for the revocation.

(b)(1) The notary public may appeal the revocation to the Pulaski County Circuit Court within thirty (30) days after service of the notice of revocation is perfected.

(2) The notary public shall appeal by petitioning the court to set aside the revocation and attaching to the petition copies of the Secretary of State's Certificate of Revocation and the written notice of revocation.

(c) The court may summarily order the Secretary of State to reinstate the notary public or take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

History. Acts 1999, No. 1187, § 2.

21-14-114. Rules and regulations.

The Secretary of State may promulgate rules and regulations necessary to administer this chapter.

History. Acts 2005, No. 2274, § 4.

21-14-201. Definitions.

As used in this subchapter:

(1) “Facsimile signature” means the reproduction by engraving, imprinting, stamping, or other means of a manual signature of a notary public;

(2) “Facsimile seal” means the reproduction by engraving, imprinting, stamping, or other means of the seal of office of a notary public, containing the information described in § 21-14-107(b)(2); and

(3)(A) “Commercial document” means any instrument, certificate, report, billing, affidavit, or other document which is required to bear a notary certificate by the terms of a purchase order, contract, bid specification, construction standard, testing standard, or other commercial standard, specification, or practice.

(B) The term “commercial document” shall not include any deed or other instrument in writing for the conveyance of any real estate or by which any real estate may be affected in law or equity.

History. Acts 1995, No. 200, § 1.

21-14-202. Use of facsimile signatures and seals authorized —Filing required.

Any notary public may affix a notary certificate bearing the notary public’s facsimile signature and facsimile seal in lieu of the notary public’s manual signature and rubber or embossed seal on a commercial document, after filing with the Secretary of State:

(1) The notary public’s manual signature certified by the notary public under oath;

(2) A general description of the types of commercial documents to be notarized by facsimile signature and seal;

(3) The name and manual signature of any other person or persons signing the commercial documents by manual or facsimile signature;

and

(4) The written consent of any other person or persons signing the commercial documents to the use of the notary public’s facsimile signature and facsimile seal on the commercial documents.

History. Acts 1995, No. 200, § 1.

21-14-203. Expiration and resignation.

(a) Any filing by a notary public with the Secretary of State's office under the terms of this subchapter shall remain in effect until the earlier of:

- (1) The date on which the notary public's commission in effect on the date of filing expires;
- (2) The filing is cancelled by the notary public by subsequent written filing with the Secretary of State; or
- (3) The filing is cancelled pursuant to § 21-14-113.

(b)(1) A notary public shall send a signed letter of resignation to the Secretary of State and shall return his or her certificate of notary public commission when the notary public:

- (A) Wishes to resign his or her commission;
- (B) Does not maintain legal residence or employment in this state during the entire term of appointment; or
- (C) Is required to resign pursuant to a court order of this state or any other state.

(2) The resigning notary public shall destroy his or her official seal immediately upon resignation.

History. Acts 1995, No. 200, § 1; 2001, No. 1274, § 7.

21-14-204. Duties of notary public.

A notary public shall have the same duties when affixing a notary certificate with the notary public's facsimile signature and facsimile seal on a commercial document as when signing a notary certificate with the notary public's manual signature and rubber or embossed seal, and nothing in this subchapter shall remove any duty or responsibility imposed on a notary public by law, except as specifically provided in this subchapter.

History. Acts 1995, No. 200, § 1.

21-14-205. Force and effect

Notary certificates which are signed by facsimile signature and sealed by facsimile seal under the provisions of this subchapter shall have the same force and effect as notary certificates signed by manual signature and bearing a rubber or embossed seal for all purposes.

History. Acts 1995, No. 200, § 1.

21-6-309. Notaries public.

(a) Each notary public in this state shall charge and collect the following fees:

- (1) For protest and record of same \$ 5.00
- (2) For each notice of protest \$ 5.00
- (3) For each certificate and seal \$ 5.00

(b)(1) Any notary public who shall knowingly charge, demand, or receive any fees not provided by law, or who shall charge, demand, or receive any greater fees than are provided in this section shall be deemed guilty of a misdemeanor.

(2) Upon conviction, he or she shall be fined in any sum not less than one hundred dollars (\$100) for each and every offense.

History. Acts 1923, No. 142, §§ 1, 2; Pope's Dig., §§ 5685, 5686; Acts 1969, No. 155, § 1; A.S.A. 1947, §§ 12-1733, 12-1739; Acts 1989, No. 304, § 1.

Use of “Notario Publico”

4-109-101. Definitions.

As used in this chapter:

(1) “Notary public” means a person duly appointed or commissioned under § 21-14-101;

(2) “Person” means:

- (A)(i) An individual;
- (ii) An organization;
- (iii) An association;
- (iv) A partnership;
- (v) A limited liability company; or
- (vi) A corporation; or
- (B) Any combination of them; and

(3) “Practice of law” means:

- (A) Holding oneself out to the public as being entitled to practice law;
- (B) Tendering or furnishing legal services or advice;
- (C) Furnishing attorneys or counsel;
- (D) Rendering legal services of any kind in actions or proceedings of any nature or in any other way or manner;
- (E) Acting as if or in any other manner assuming to be entitled to practice law; or

(F) Advertising or assuming the title of lawyer or attorney, attorney at law, or equivalent terms in any language in such a manner as to convey the impression that one is entitled to practice law or to furnish legal advice, service, or counsel.

History. Acts 2005, No. 66, § 1.

4-109-102. Prohibited acts and practices.

It is a violation of this chapter for any person to advertise his or her services using the terms “notario” or “notario publico,” or any similar term, unless the person is a notary public as defined in this subchapter and the person complies with the notice requirements in §4-109-103.

History. Acts 2005, No. 66, § 1.

4-109-103. Notice required.

(a) Any notary public who chooses to use the term “notario” or “notario publico,” or any similar terms, in any advertisement shall include in the advertisement the following notice:

“I AM NOT A LICENSED ATTORNEY AND CANNOT ENGAGE IN THE PRACTICE OF LAW. I AM NOT A REPRESENTATIVE OF ANY GOVERNMENTAL AGENCY WITH AUTHORITY OVER IMMIGRATION OR CITIZENSHIP AND I CANNOT OFFER LEGAL ADVICE OR OTHER ASSISTANCE REGARDING IMMIGRATION.”

(b) The notice shall be provided in both English and Spanish.

History. Acts 2005, No. 66, § 1.

4-109-104. Exceptions.

This chapter does not apply to an attorney licensed in this state.

History. Acts 2005, No. 66, § 1.

4-109-105. Enforcement.

A violation of this chapter is an unconscionable or deceptive act or practice, as defined by the Deceptive Trade Practices Act, § 4-88-101 et seq.

History. Acts 2005, No. 66, § 1.

Mail applications to:
Secretary of State
Business and Commercial Services
State Capitol
Little Rock, Arkansas 72201-1094

Physical Address:
Victory Building
1401 West Capitol Ave.
Suite 250
Little Rock, Arkansas 72201
Phone: (501) 682-3409 Toll Free: (888) 233-0325
www.sos.arkansas.gov



SECRETARY OF STATE
MARK MARTIN

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